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|-----------------------------------|---|----------------|
| In re Application of | : | DECISION ON |
| Stephen TEMPLE | : | |
| Application No.: 10/500,781 | : | |
| PCT No.: PCT/GB03/00150 | : | |
| Int. Filing Date: 16 January 2003 | : | PETITION UNDER |
| Priority Date: 16 January 2002 | : | |
| Attorney Docket No.: 27754/24347 | : | |
| For: DROPLET DEPOSITION APPRATUS | : | 37 CFR 1.181 |

This decision is in response to applicant's "PETITION TO WITHDRAW NOTICE OF ABANDONMENT" filed on 07 April 2008, requesting the withdrawal of the Notice of Abandonment because the executed declaration was timely filed as evidenced by the stamped postcard receipt.

BACKGROUND

On 16 January 2003, this international application was filed, claiming an earliest priority date of 16 January 2002.

On 02 July 2004, applicant filed a transmittal letter for entry into the national stage in the United States which was accompanied by, inter alia, the requisite basic national fee as required by 35 U.S.C. 371(c)(1), but no executed declaration was filed on such time.

On 08 March 2005, the United States Designated/Elected Office (DO/EO/US) mailed a "NOTIFICATION OF MISSING REQUIREMENTS UNDER 35 U.S.C. 371 IN THE UNITED STATES DESIGNATED/ELECTED OFFICE (DO/EO/US)" (Form PCT/DO/EO/905) which informed applicant, inter alia, that an "Oath or Declaration of the inventors, in compliance with 37 CFR 1.47(a) and (b), identifying the application by the International application number and international filing date. The notice indicated that the items above must be submitted within two (2) months from the date of this notice or by 32 months from the priority date, whichever is later, in order to avoid abandonment of the national stage application.

On 20 April 2005, a second Notification of Acceptance (Form PCT/DO/EO/903) was mailed stating that the Date of Receipt of 35 USC 371 (c)(1), (c)(2), and (c)(4) requirements was 04 April 2005 and the Date of Completion of All 35 USC 371 Requirements is 04 April 2005.

On 27 March 2008, the UPSTO mailed a "NOTIFICATION OF ABANDONMENT" (Form PCT/DO/EO/909), which indicated that the applicant has failed to respond to the "Notification of Missing Requirements (From PCT/DO/EO/905)" mailed 27 March 2008 within the time period set therein.

In response to the "NOTIFICATION OF ABANDONMENT" mailed on 27 March 2008, applicants submitted on 07 April 2008 the instant petition requesting withdrawal of the Notice of Abandonment. In support of the request, applicants have provided a copy of the returned/stamped receipt card acknowledging a receipt date of 04 April 2008 of the executed declaration, within the time period of response.

DISCUSSION

Applicants' present petition accompanied by a copy of the following document, filed purportedly with the PTO as indicated in the stamped postcard:

- (1) Copy of the executed declaration
- (2) Copy of stamped postcard by USPTO dated April 04, 2005

The postcard lists the above items and bears a USPTO date of stamp as April 04, 2005.

MPEP 503 provides:

A postcard receipt which itemizes and properly identifies the papers which are being filed serves as *prima facie* evidence of receipt in the PTO of all the items listed thereon on the date stamped thereon by the PTO.

Applicants' postcard is accepted as *prima facie* that the executed declaration was timely deposited with the U.S. Patent and Trademark Office on 04 April 2005.

Accordingly, the date of receipt for the executed declaration is 04 April 2005.

In addition, a review of the file reveals that the executed declaration was filed 04 April 2005 and that a proper Notice of Acceptance of Application Under 35 USC 371 and 37 CFR 1.495 was properly mailed on 20 April 2005. As a result, the Notice of Abandonment (Form PCT/DO/EO/909) mailed on 27 March 2008 was erroneous.

CONCLUSION

The petition under 37 CFR 1.181 is GRANTED.

The NOTICE OF ABANDONMENT, mailed 27 March 2008 has been VACATED.

The application is being returned to the United States Designated/Elected Office (DO/EO/US) for processing in accordance with this decision.



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